

**REGULAR MEETING
of the
CITY OF RIALTO
CITY COUNCIL/REDEVELOPMENT AGENCY
RIALTO UTILITY AUTHORITY
RIALTO HOUSING AUTHORITY**

**MINUTES
July 26, 2011**

A regular meeting of the City Council/Redevelopment Agency of the City of Rialto was held in the City Council Chambers located at 150 South Palm Avenue, Rialto, California 92376, on Tuesday July 26, 2011.

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This meeting was called by the presiding officer of the Rialto City Council in accordance with the provisions of **Government Code §54956** of the State of California.

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CALL TO ORDER

Mayor Pro Tem Ed Scott called the meeting to order at 5:00 p.m.

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The roll was called and the following were present: Mayor Pro Tem Ed Scott and Council Members Deborah Robertson, Ed Palmer, Joe Baca Jr. Also present were Acting Interim City Administrator Michael Story, City Attorney Jimmy Gutierrez and City Clerk Barbara McGee. Mayor Grace Vargas was absent.

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CLOSED SESSION

1. Conference with Legal Counsel – Existing Litigation. The City Council and Redevelopment Agency Board will discuss the following pending litigation pursuant to Government Code Section 54956.9(a):

(a) City of Colton v. American Promotional Events, Inc., et al.

United States District Court Case No. EDCV 09-01864 PSG (SSx)

(b) San Bernardino County Flood Control District. v. City of Rialto, et al.
San Diego County Superior Court Case No. 37-2009-00082535- CU-EI-CTL

CLOSED SESSION

2. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE:
The City Council will discuss the following pursuant to Section 54957.6.
3. Conference with Labor Negotiator regarding the following recognized employee organization pursuant to Government Code Section 54957.6:

Agency negotiator: Brad Neufeld, GSNT

Employee organization: Rialto Police Benefit Association
Police Management Bargaining Unit
Mid-Management Bargaining Unit
General Bargaining Unit
CGMA Bargaining Unit
Fire Management Bargaining Unit
Firefighters Union Local 3688

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Motion by Council Member Robertson, second by Council Member Palmer and carried by a 4-0 vote to go into Closed Session at 5:05 p.m. Mayor Vargas was absent.

City Council returned at 6:15 p.m.

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CALL TO ORDER

Mayor Pro Tem Ed Scott called the meeting to order at 6:25 p.m.

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The roll was called and the following were present: Mayor Pro Tem Ed Scott, Council Members: Ed Palmer, Joe Baca Jr., and Deborah Robertson. Also present were Acting Interim City Administrator Michael Story, City Attorney Jimmy Gutierrez and City Clerk Barbara McGee. Mayor Grace Vargas was absent.

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Pledge of Allegiance and Invocation

Council Member Ed Palmer led the pledge of allegiance and Pastor Harry Bratton – Greater Faith Grace Bible Church gave the Invocation.

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City Attorney's Report

City Attorney Gutierrez stated the City Council went into Closed Session regarding two lawsuits. The first item – Conference with Legal Counsel on existing litigation under Government Code Section 54956.9 (a) The City of Colton v. American Promotional Events. This is the City's perchlorate litigation; the City Council received an update and no action was taken. The second item was San Bernardino County Flood Control District v. City of Rialto, et al. City Council was given a report regarding the status of that case including ongoing mediation of that case. City Council gave direction on how to approach that mediation. The second item was under Government Code Section 54957.6 regarding a public employee dismissal and release matter. City Council heard some information and took no action. The last item was conference with the City's labor negotiator Mr. Brad Neufeld under Government Code Section 54957.6 regarding all employee organizations. Mr. Neufeld updated the City Council on the discussions with those organizations and no action was taken.

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CONSENT CALENDAR

A. WAIVE FULL READING OF ORDINANCES

1. Waive reading in full, all ordinances considered at this meeting.

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B. APPROVAL OF WARRANT RESOLUTIONS

1. Resolution No. 50 (6/30/11)
2. Resolution No. 1 (7/08/11)

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C. APPROVAL OF MINUTES

1. Regular RDA/City Council Meeting – July 12, 2011

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D. SETTING OF PUBLIC HEARINGS

1. Request RDA/City Council to set a public hearing for the **September 13, 2011** City Council Meeting for the placement of liens (delinquent refuse collection accounts) against the properties shown on the attachment for the 1st quarter of 2011.

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E. MISCELLANEOUS

1. Request City Council to adopt **Resolution No. 6025** excusing Mayor Grace Vargas from attendance at City Council Meetings.
2. Request City Council to approve Second Amendment to extend the Professional Services Agreement for the Law Enforcement Medical Services, Inc. for Nursing Service Contract for a two year period in the amount of \$36,000 per year.

CONSENT CALENDAR

3. Request City Council to adopt **Resolution No. 6026** approving Amendment No. 1 to the Professional Services Agreement with Willdan Financial Services in the amount of \$9,700 for additional services related to the completion of the City's Development Impact Fee Study.
4. Request City Council to approve a Notice of Completion for Alder Avenue Sewer from Baseline Avenue to Easton Street, Project No. 080506-00 and approve a net increase of \$28,746.05 in project expenditures.
5. Request City Council to approve a Notice of Completion for the Street Widening Project on Rialto, Merrill, Cactus Avenue and Bloomington Avenue, project number 100808-00.
6. Request City Council to adopt **Ordinance No. 1489** add Chapter 9.43 to Title 9 of the Rialto Municipal Code Prohibiting the Manufacture, Purchase, Sale or Possession of Certain Chemical Compounds.

ORDINANCE NO. 1489

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA, ADDING CHAPTER 9.43 TO TITLE 9 OF THE RIALTO MUNICIPAL CODE PROHIBITING THE MANUFACTURE, PURCHASE, SALE, OFFERING FOR SALE OR PURCHASE AND POSSESSION OF CERTAIN INTOXICATING CHEMICAL COMPOUNDS

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Motion by Council Member Baca Jr., second by Council Member Palmer and carried by a 4-0 vote to approve the Consent Calendar as presented. Mayor Vargas was absent.

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PUBLIC HEARING

TAB 1 – County Property Tax Roll for Delinquent Wastewater Payments

Donna Vickers, Interim Chief Financial Officer stated this is a public hearing to consider approval of a Resolution for the placement of charges on the County Property Tax Rolls for delinquent Wastewater payments. The city of Rialto provides wastewater service throughout the entire City and areas of Bloomington. Where the City provides water and wastewater are billed together. In cases where accounts become delinquent the City is able to impose penalties and water shut-off to promote payment. However there are areas serviced by West Valley Water District and Fontana Water Co. In these areas staff bill sewer only accounts. On June 19, 2007 the Rialto Municipal Code was amended to allow for the placement of delinquent charges on the property tax bills with the County Assessors offices.

PUBLIC HEARING

TAB 1 – County Property Tax Roll for Delinquent Wastewater Payments

Donna Vickers, Interim Chief Financial Officer stated they have a list of the impacted properties with the parcel numbers. They have received two notifications and letters and they will be accepting payments until the 28th and at that time they will place the lien on their property.

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Mayor Pro Tem Scott declared the public hearing open.

No one came forward.

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Motion by Council Member Palmer, second by Council Member Baca Jr. and carried by a 4-0 vote to close the public hearing. Mayor Vargas was absent.

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Motion by Council Member Palmer, second by Council Member Baca Jr. and carried by a 4-0 vote to adopt **Resolution No. 6027** regarding the placement of charges on the County Property Tax Roll for delinquent Wastewater Payment. Mayor Vargas was absent.

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TAB 2 – TEFRA Hearing for Issuance of Multi-Family Revenue Bonds for West Jackson Street Revitalization

Robb Steel, Economic Development Director stated this item is to conduct a TEFRA Hearing and adopt a resolution approving the issuance of Multi-Family Revenue Bonds by the California Statewide Communities Development Authority for the West Jackson Street Neighborhood Revitalization Project. On February 9, 2010 the housing Authority approved an Affordable Housing Agreement with Southern California Resource and Development LLC to cause the acquisition and rehabilitation of the West Jackson Neighborhood. The project consists of 28 acquisition and rehabilitation units and four new construction units all located in the 300 Block of West Jackson Street. Once the project is completed it will include 32 units which will be operated as an integrated housing complex for very low/low income families. There are 60 units total in the West Jackson Neighborhood. this project of 32 units and the 8 units done separately under NSP Funding. The Authority will control 40 units within the neighborhood. The remaining 20 units will be rehabilitated and managed by the private owners. The goal as in their previous acquisition and rehabilitation projects is to consolidate ownership of the 4-plex units and alleviate the physical and social blight caused by improper management. The City received a request from the California Statewide Communities Development Authority to conduct the public hearing as required by the Internal Revenue Code in order to issue tax-exempt revenue bonds for an amount of approximately \$6 million.

PUBLIC HEARING

TAB 2 – TEFRA Hearing for Issuance of Multi-Family Revenue Bonds for West Jackson Street Revitalization

Robb Steel, Economic Development Director stated with the bonds and the proceeds will be made available to the Developer for the acquisition and rehabilitation of the project. The developer has submitted entitlements to the City and expects to start construction later this year. These bonds are tax-exempt private activity bonds. They require the approval of the elected body before the Statewide Authority is authorized to issue them. City Council is being asked to approve the financing. The City/Authority is not under any obligation to repay the debt. The debt is secured by the revenues from the project and other security that will be provided by the Developer.

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Mayor Pro Tem Scott declared the public hearing open.

No one came forward.

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Motion by Council Member Palmer, second by Council Member Robertson and carried by a 4-0 vote to close the public hearing. Mayor Vargas was absent.

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Council Member Baca Jr. stated that he is in support of this program. He thinks it's important to revitalize West Jackson Street and the developer they chose is going to do a good job. He wants to make sure that Mr. Steel and the City Council address the 20 units that will do it on their own. He wants to make sure they don't get a piece-mealed project.

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Robb Steel, Economic Development Director stated they agree. The target was to get 40 units because it represents 2/3 of the units and this gives them additional authority to impose compliance with the rehabilitation terms. The goal is to get compliance first voluntarily and several of the owners have shown a willingness to participate in the rehabilitation.

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Motion by Council Member Palmer, second by Council Member Robertson and carried by a 4-0 vote to adopt **Resolution No. 6028** approving the Issuance of Multi-Family Revenue Bonds by the California Statewide Communities Development Authority for the West Jackson Neighborhood Revitalization Project. Mayor Vargas was absent.

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PUBLIC HEARING

TAB 3 – Street Lighting District No. 1 ordering the continued operation for Fiscal Year 2011/12

Ahmad Ansari, Public Works Director/City Engineer stated this is a request to adopt a Resolution for Street Lighting District No. 1 confirming the Engineer's Report and ordering the continued operation of the District for the 2011/12. Each residential unit will receive the same assessment as applied in previous years \$2.05. The method for calculating the assessment is unchanged from last year. The calculation takes two factors into account, the land benefit factor applied to the land and the development factor which is applied to the improvements of the land. Vacant properties are not charged development. The 2011/12 SLD1 Assessment will generate approximately \$852,313. The cost to operate the District is \$1,129,556 with a subsidy of \$277,243 paid from the General Fund for this district. Fiscal Year 2012 budget revenue is \$803,570 with a deficit of \$286,005, which will be adjusted at mid-year.

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Mayor Pro Tem Scott declared the public hearing open.

No one came forward.

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Motion by Council Member Robertson, second by Council Member Palmer and carried by a 4-0 vote to close the public hearing. Mayor Vargas was absent.

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Council Member Palmer stated when reading this, he knows they have the vote with the citizens and it came back a NO vote to increase the rates on this. He knows that times are tough economically right now. As Council Members they have to make decisions but in his opinion he thinks the citizens got this one wrong because the impact is more than \$250,000 that comes out of the General Fund to cover this because they are running it as a loss.

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Motion by Council Member Robertson, second by Council Member Baca Jr. and carried by a 4-0 vote to adopt **Resolution No. 6029** for Street Lighting District No. 1, confirming the Engineer's Report, and ordering the continued operation of the District for Fiscal Year 2011/12. Mayor Vargas was absent.

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PUBLIC HEARING

TAB 4 – Landscape Maintenance District No. 1 ordering the continued operation for Fiscal Year 2011/12

Ahmad Ansari, Public Works Director/City Engineer stated this is a request to adopt a Resolution for Landscape Maintenance District No. 1 confirming the Engineer's Report and ordering the continued operation of the District for the 2011/12. Each residential unit will receive the same assessment since 1993 of \$58.00. The Engineer's report has grouped the residential developments into two benefit zones based on whether they include tree maintenance or not. All other developments within the districts are grouped into a third zone. The 2011/12 LMD1 Assessment will generate \$542,541. The cost to operate this district is \$696,796 with a subsidy of \$153,255 paid from the General Fund. Fiscal year budget 2012 is \$497,560 with a deficit of \$105,875, which will be adjusted at mid-year.

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Mayor Pro Tem Scott declared the public hearing open.

No one came forward.

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Motion by Council Member Palmer, second by Council Member Baca Jr. and carried by a 4-0 vote to close the public hearing. Mayor Vargas was absent.

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Motion by Council Member Baca Jr., second by Council Member Robertson and carried by a 4-0 to approve adopt **Resolution No. 6030** for Landscape Maintenance District No. 1, confirming the Engineer's Report, and ordering the continued operation of the District for Fiscal Year 2011/12. Mayor Vargas was absent.

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TAB 5 - Landscape Maintenance District No. 2 ordering the continued operation for Fiscal Year 2011/12

Ahmad Ansari, Public Works Director/City Engineer stated this is a request to adopt a Resolution for Landscape Maintenance District No. 2 confirming the Engineer's Report and ordering the continued operation of the District for the 2011/12. There are three benefit zones and for Fiscal Year 2011/12 Zone 1 will be levied at \$341.57 per unit, Zone 2 will vary depending on the status on the size and Zone 3 at the rate of \$525.14 per unit. The benefit zone structure will allow for similar properties with the similar types of improvements to be assessed on a proportional amount for the services and activities provided by the District. Based on the rates for Zones 1, 2 and 3 within LMD2 the proposed assessment will generate approximately \$273,873. The total budgeted expenditures also include 5%-10% approximate reserves for the delinquencies and emergency irrigation repairs. Fiscal Year 2012 budget revenue is \$256,470 to be adjusted at mid-year.

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PUBLIC HEARING

**TAB 5 - Landscape Maintenance
District No. 2 ordering the continued
operation for Fiscal Year 2011/12**

Mayor Pro Tem Scott declared the public hearing open.

No one came forward.

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Motion by Council Member Palmer, second by Council Member Robertson and carried by a 4-0 vote to close the public hearing.

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Motion by Council Member Palmer, second by Council Member Baca Jr. and carried by a 4-0 vote to adopt **Resolution No. 6031** for Landscape Maintenance District No. 2, confirming the Engineer's Report, and ordering the continued operation of the District for Fiscal Year 2011/12. Mayor Vargas was absent.

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NEW BUSINESS

**TAB 6 – Cedar Avenue/Metrolink
Drainage Facility Project**

Robb Steel, Economic Development Director stated this is a request to approve a budget resolution amending the 2010/2014 Capital Improvement Program to included the Cedar Avenue/Metrolink Drainage Facility Project and to approve a Professional Services Agreement with Otte-Berkeley in the amount of \$63,700 for engineering design related to the project. On January 25, 2011 the City Council approved the PSA with Otte-Berkeley to prepare a focus drainage study for a watershed area bounded by Foothill Blvd., Merrill Avenue, Linden Avenue and Cactus avenue. The primary concerns to be addressed in the study were flooding of Cedar Avenue at the Metrolink Railroad and resulting impacts of Metrolink operations during rain events. Flooding impacts to the Toys R Us facility. The report makes several recommendations to resolve the problems including three construction solutions and one with three options. Construction of a covert on Cedar under the railroad crossing. Construction of the East Fontana storm drain. Construction of a storm drain on Merrill Avenue with three options depending on whether it was within public right-of-way or using private property. All but the first option, the construction of the covert on Cedar Avenue, were very expensive options. Extensive facilities that were part of the backbone drainage infrastructure but all have technical issues associated with them. The more permanent solutions are not viable at this time because they require connections to the Rialto Channel and the San Bernardino County Flood Control District is not allowing any connections at the present time because of capacity problems. Their options are limited to interim fixes similar to the covert on Cedar Avenue. The Cedar covert is an interim solution that will convey flood waters exceeding 50 cubic feet per second under the tracks.

NEW BUSINESS

TAB 6 – Cedar Avenue/Metrolink Drainage Facility Project

Robb Steel, Economic Development Director stated helping divert the suspension of service during rainstorms and simultaneously reducing flows that move easterly along the railroad tracks and then through the covert and onto the Toys R us property. The estimated construction cost of this option is \$340,800. Staff discussed the results of the drainage study with the EDC on July 13th and they acknowledged the seriousness of the situation and recommended that staff expedite the design and construction of the intercrossing. The drainage study did do some analysis to indicate that the road system was capable of handling the flows once they got south of the railroad tracks and proceeded on Cedar Ave. A design proposal was received from Otte-Berkeley and the cost to design was negotiated to be \$63,700. This represents 15% of the total construction costs, which is within the normal range of design costs. The design cost will be paid from the drainage impact fee account and construction project be funded from this source as well. The fund currently has an unencumbered balance of \$1.4 million.

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Motion by Council Member Baca Jr., second by Council Member Robertson and carried by a 4-0 vote to adopt budget **Resolution No. 6032** and **Resolution No. 6033** to amend the 2010-2014 Capital Improvement Program to include the Cedar Avenue/Metrolink Drainage Facility Project. Approve a Professional Services Agreement with Otte-Berkeley in the amount of \$63,700 for engineering design of the Cedar Avenue/Metrolink drainage facility. Mayor Vargas was absent.

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TAB 7 – Transfer of Traffic Congestion Relief- Prop 42 Funds for Slurry Seal and Overlay Projects

Donna Vickers, Interim Chief Financial Officer stated this is considered a housekeeping item. This is a request to adopt a budget Resolution to facilitate the transfer of Traffic Congestion Relief – Proposition 42 to a road and transportation maintenance tasks. In 2002 Proposition 42 was passed guaranteeing an local allocation of the gasoline sales tax revenues for transportation purposes. Specifically under the Traffic Congestion Relief Program to cities. The City usually uses this for street maintenance such as slurry seal and overlay. In Fiscal Year 2010/11 there was \$821,433 remaining in the fund that had been appropriated and approved May 10, 2011 by City Council for the Slurry Seal and Overlay project. This item has two budget resolutions to facilitate the transfer of those funds to complete that project.

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NEW BUSINESS

TAB 7 – Transfer of Traffic Congestion Relief- Prop 42 Funds for Slurry Seal and Overlay Projects

Council Member Baca Jr. stated that he has a minor request. The area between San Bernardino Ave. and Randall on Sycamore Ave. He knows that half is Rialto and half is Colton. Can they reach out to Colton and talk about splitting the cost of cleaning that area up.

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Motion by Council Member Robertson, second by Council Member Palmer and carried by a 4-0 vote to adopt budget **Resolution No. 6034** for FY 10/11 and **Resolution No. 6035** for FY 11/12 to facilitate transfer of Traffic Congestion Relief-Proposition 42 Funds for Slurry Seal and Overlay projects. Mayor Vargas was absent.

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TAB 8 – Agency Annual Report for Fiscal Year ending June 30, 2010

Robb Steel, Economic Development Director stated the Agency is required by law to provide not just the financial audit but also a series of other statements. This report is a year late; for fiscal year concluding June 30, 2010. They had waited so they can have the auditor present with the City audit. They have three major funds. One is the Debt Service Fund, where all the money comes into. Their tax increment has been flat for the last three years. The \$22 million pays their debt obligations so the tax allocation bonds they issued in 2003, 2005, 2008 approximately \$140 million still outstanding. The total unrestricted balance went from \$6 million to \$14 million over the three-year period. They had a huge payment to the State in 2010 they had to write a check for \$6.7 million to the ERAF account so it hit their reserves. While they have a balance, they have to dedicate a part of it to making a State payment. The Capital Projects Fund, this is where they deposit all the tax allocation bond proceeds in. When members of the public or when City Council looks at the Treasurer Statement every month. They will see large balances that the Agency holds pending construction. 2008 was the Watershed year they issued \$100 million in debt. They can see cash held by the RDA in that year was \$91 million at the end of the fiscal year. That money is slowly being deployed to projects. Riverside Ave./I-10, Pepper Avenue, Fire Station 202, Fergusson Park, Library Reconstruction. Those are projects on the way or recently completed that are drawing upon those funds. These funds eventually within the next two years will be depleted to \$0. Then all the funds that will be holding will be the land assets that the Agency holds. They do have substantial land holding. They control the Airport, approximately 500 acres of land. They have 100 acres scattered throughout Rialto. The goal ultimately is to sell those assets for development and convert them to cash and then carry on additional capital projects. The low/moderate income housing funds. This combines the assets of the low/mod fund and Rialto Housing Authority. They have to set aside 20% of the tax increments into this account every year.

NEW BUSINESS

TAB 8 – Agency Annual Report for Fiscal Year ending June 30, 2010

Robb Steel, Economic Development Director stated they average \$5 million a year in allocations to the housing fund. In 2008 they issued bonds and they had \$40 million in debt outstanding at that point against the housing fund. Most of the cash they see is the cash derived from those bond sales. Those have all been devoted to projects they have underway. TELACU projects 2 & 3, West Jackson Street and KDF Project. The cash they have unrestricted, some of it has already been committed to projects in fiscal year 2011. What little is left will be committed in 2012. To make the State payment the amount they set aside for housing they are proposing to make a partial payment to that State obligation in FY12. They show unreserved balance, which is out of date and won't be as large when they make this presentation next year. They are also supposed to give a blight report. He pulled out some things in the economic development arena to highlight the year. They acquired several long-term leaseholds at \$8.5 million expense. They acquired a replacement site for Fire Station 202, which is now under construction. They acquired a replacement facility for both the Police Department and the City for its records purposes. Those relocations are underway. They approved the Downtown Vision Plan in Fiscal Year 2010. They negotiated the agreements to reconstruct the Library and that project was just completed. Pusan Pipe completed their expansion under the OPA in FY 2010. On the housing side, Phase II of Citrus Grove was completed in FY 2010. That was 42 units that they had acquired and conveyed to National CORE. TELACU II completed its entitlements and is now finishing that project. They also approved the agreements to acquire and rehabilitate West Jackson Street. They are moving forward with the financing to get the project started. During that year they acquired and rehabilitated 17 homes using the NSP Program funds. They also remodeled the 428 E. Walnut Ave. for the Arrington Family. They repaired over 180 homes in Rialto through one of their programs. Lastly one of their responsibilities was administering the foreclosure/abatement program assessing lenders and other property owners for abandoning properties and leaving them in a dilapidated condition. They are required to report on their loan portfolio. Over the years they made loans with 132 loans still outstanding representing \$1.6 million in investments. The portfolio grew by \$660,000 in Fiscal Year 2010. There were no loans that were in excess of \$50,000 which were in default. Most of the loans are small so that is not surprising. Even the smaller loans they have only had five loans they had to discharge due to foreclosures representing \$89,000. This is 1% of the total. They still have a high pay back rate or non-default rate on their loan portfolio. Lastly they need to report on properties they have acquired and sold, some mentioned earlier. They sold some of the properties to the City. Jerry Eaves Parking lot, they didn't sell but gave. They also dedicated the Fire Station 205 site.

NEW BUSINESS

TAB 8 – Agency Annual Report for Fiscal Year ending June 30, 2010

Robb Steel, Economic Development Director stated they had a major transaction with Caltrans where they bought and sold some to them for the 210 Freeway construction. They sold the Citrus Grove Project 42 units to National CORE and then the Arrington Home. They still have 600 acres mostly in the Airport property that they hope to redevelop over the next few years. They are obligated to report what the major redevelopment plan limits are to give them an idea what authorities they have and when they expire. One of the more controversial ones is what are their eminent domain authorities. Generally speaking they have until 2016 on two of the project areas, Gateway and Agua Mansa. They have until 2014 on the added territory. It does expire unless its amended by the City Council and takes a public hearing and an elaborate process in order to extend it. They really have no authority on residential properties. They do have authority in the added territory but there are very few residences. They repealed their time limit for establishing indebtedness. It used to be that Agency's couldn't incur new debt, which is the life blood of their operation past these time limits. A few years ago the State gave them the authority to repeal those and just live off the last two plan limits. Basically that plan effectiveness is when they have to cease operations. If the State doesn't shut them down sooner they have anywhere from 2022-2033 to complete their operations. Then they have a period of time after that to collect increment and pay off the debts they have incurred implementing the plans. They still have a fairly long life left assuming their funds aren't confiscated or that there aren't efforts to shorten their life.

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Motion by Council Member Palmer, second by Council Member Baca Jr. and carried by a 4-0 vote to accept the Agency Annual Financial Report for Fiscal Year ending June 30, 2010. Mayor Vargas was absent.

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TAB 9 – Fiscal Year 2009/2010 Annual Financial Statements

Donna Vickers, Interim Chief Financial Officer stated this for the acceptance of the 2009/2010 Annual Financial Statements for the City. In order to meet all the guidelines set forth in the Governmental Accounting Standards Board - GASB Statement No. 1. The City is required to have an annual independent audit each year.

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Kathryn Beseau, CPA of Macias, Gini, O'Connell LLP gave an overview of the financial statements of 2010. They are a little behind this year reporting due to the City's large turnover in Executive Management and other staff which slowed down the audit process. They had ongoing issues in the City that needed to be addressed from an audit perspective.

NEW BUSINESS

TAB 9 – Fiscal Year 2009/2010 Annual Financial Statements

Kathryn Beseau, CPA of Macias, Gini, O'Connell LLP stated that the good news is that at the completion of the audit they gave a "clean" opinion - an unqualified audit opinion which is what you want. The first statement is the annual financial report of the entire City. In the financial statements this year they implemented GASB Statement No. 51 which is the accounting and financial reporting for intangible assets. In the City's case they had \$7 million worth of easements that they had never valued before. So because they had never been valued, and the City was not required to, now the standards say you have to value those easements. They did what they call a prior period adjustment to bring those easements onto the books of the City. It doesn't mean the City made a mistake, it just means that the accounting standards have changed. They had other adjustment she will talk about later. The second statement is a smaller statement that is called the single-audit report. This is where they report on the City's Federal expenditures, which is a requirement if they have more than \$500,000 in Federal award grants they spend in a fiscal year. In the audit they did have a material weakness and a compliance finding. The material weakness related to the fact they had this large amount of turnover in their management and the fact that their year-end close was so delayed. In addition, the compliance finding was they didn't file the single audit report within 180 days as prescribed by law. The compliance finding is not considered to be a material weakness, it's just a finding they report to the Federal Government. The third is a one page letter, regarding the Utility User Tax Report. The ordinance requires that the auditor give them an opinion and this opinion states that they complied with the ordinance. There is nothing more than them saying that the City has complied with the Ordinance that established a Utility User Tax. The fourth letter is an agreed upon procedure for the GANN Limit. This is where they are required to determine the calculation for the appropriation limit each year. As the auditor it's their job to determine that the City did the calculation properly and that the City Council approved the GANN limit appropriation. The next item is the management letter, which is addressed to management and members of the audit committee. Throughout the year they met with the audit committee on several occasions. They met with Council Member Palmer and Mayor Pro Tem Scott several times and they discussed all of the issues that are included in the management letter. In the management letter they identified two material weaknesses. One was the same one they identified in the single audit report. It was re-stated in the management letter. The second is a number of adjustments that were required to make to the financial statements at year end. They also identified in that letter several other comments they consider to be controlled deficiencies. They are not material weaknesses and not significant deficiencies.

NEW BUSINESS

TAB 9 – Fiscal Year 2009/2010 Annual Financial Statements

Kathryn Beseau, CPA of Macias, Gini, O'Connell LLP stated they are not required to bring controlled deficiencies to the City Council however they had requested that the auditor bring all items to them that they also bring to management. There are several things noted in that letter that talk about those various controlled deficiencies. All the comments they made in the management letter have responses by the management. The last comment they have in the management letter, they are reporting that for fiscal year 2011 they must implement GASB Statement No. 54. This is titled Fund Balance Reporting and Governmental Fund Type Definitions. This deal with the break down of fund balance and the various functions of fund balance. The last letter is the communication to those charged with governance which is the City Council. In that letter they talk about several things, one being they disclosed that the City implemented GASB Statement No. 51 regarding easements. In that letter they also talk about all the significant estimates that are included within the report. Those estimates are management estimates and they auditors review those estimates to make sure they agree with the assumptions and the way they are developed. They talk about any difficulties they encountered during the audit. They did not encounter any difficulties they mentioned in the letter. The difficulties they had in the audit was the fact of the turnover in personnel. The Finance staff were very helpful and cooperative. They also report any corrected or uncorrected misstatements found during the audit. In the back of the letter there is a page that lists all of those adjustments they found. All of the adjustments they found were booked by them so they are reported in the financial statements. Because of the number of those adjustments they found they considered that to be a material weakness reported in the management letter. They also found another prior period adjustment in the audit that have to do with the loans payable there was a HELP loan the City entered into in 2005 that had never been recorded as a loan payable. They knew they had the money and knew what they needed to do with the money but they never recorded it as a loan but recorded it as revenue. They had no disagreements with management and also management gave them representation that they had given them all the information they needed in order to conduct their audit. There is nothing that came to their attention that led to believe they were not provided all the information.

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NEW BUSINESS

TAB 9 – Fiscal Year 2009/2010 Annual Financial Statements

Mayor Pro Tem Scott encouraged his fellow Council Members to read No. 5, which is the management, and audit committee letter because it addresses premium pay in the letter and their lack of a policy. Additionally, they talked about a fraud reporting hotline. They currently don't have a formal written policy describing how an employee or citizen would report suspected fraud, unethical activities or questionable behavior. He stated that there is no procedure in how to investigate or how to resolve any issues from reported or suspected fraud, unethical activities or questionable behavior. It is the recommendation of the committee that such a hotline be established to prevent some of the instances they experienced recently.

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Council Member Robertson stated that in the single-audit report they began by saying a material finding was related to turnover and lack of executive staff.

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Kathryn Beseau, CPA of Macias, Gini, O'Connell LLP stated that on page 9 of the single-audit report under the section that says financial statement findings. They identified that finding as year-end close process and material adjustments. Because of the process at year-end and the turnover with staff, the year-end process did not go the way it should.

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Council Member Robertson stated that she was thinking they were doing an audit of a fiscal year picture, which would have been July 1, 2009 to June 30, 2010. The staff that turned over didn't really occur until after that period. She understands now that in order to get the audit completed the staff that was gone by then made it difficult to complete the process.

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Kathryn Beseau, CPA of Macias, Gini, O'Connell LLP stated when the year-end closes on June 30, this is where staff pulls together year-end. Right now, they haven't really started pulling together or just at the beginning of pulling together 2011. They will spend the next six months and hopefully by the end of the year they will have completed the 2011 audit. It's a long process because governments get their money differently than going to Nordstrom's and buying a pair of shoes. When they go to Nordstrom's they had a sale. With government, they are getting money from many different places and some of the times they don't know what money they got until September, October, November. They are waiting on Federal and State government to send what they want to give and right now it's a little touchy.

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NEW BUSINESS

TAB 9 – Fiscal Year 2009/2010 Annual Financial Statements

Council Member Robertson stated that when she thinks about deficiencies and issues, she is usually looking within the year they are auditing because staff will turnover and does this become a problem with the year they audit or is it more pulling all the things they need to do an effective audit.

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Kathryn Beseau, CPA of Macias, Gini, O'Connell LLP stated its both. The problem they have is when they lose two of the top positions its difficult for that staff that is remaining to have all that historical knowledge that the two individuals had on various issues. It took a lot to dig through on what was the proper accounting for some things.

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Motion by Council Member Baca Jr., second by Council Member Robertson and carried by a 4-0 vote to accept the Fiscal Year 2009/2010 Annual Financial Statements and related documents. Mayor Vargas was absent.

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TAB 10 – Auditor Findings for ARR and DAP Programs

Robb Steel, Economic Development Director stated this is an audit of the NSP Program. This was an audit request by City Council last August with findings and recommendations that staff concurred with and in the process of implementing.

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John Dutrey, Housing Program Manager, stated that last year the City Council requested an audit be done of the NSP – Acquisition, Rehabilitation, Resale Program, which was awarded the City in 2008 as part of the foreclosure crisis. The report was release in April 2011 along with recommendations. Overall the report determined they found compliance with the program guidelines. There were some areas for improvement; establish written guidelines, distribution of these homes to development partners, establishing a log for ineligible applicants. City staff monitoring the program, ensuring marketing of the properties and compliance of the program guidelines. Establishment of formal written policies in regards to a lottery process and other procedures of the program. Overall, some of these recommendations were already in place or have been implemented. Part of this includes the fair resale offer policy, which they updated to include many of the recommendations made. They included the buyer profiles of the 38 homes that were purchased by homebuyers. This past June they engaged in Housing Fair with people attending being qualified to purchase homes in Rialto or surrounding communities.

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NEW BUSINESS

TAB 10 – Auditor Findings for ARR and DAP Programs

Mayor Pro Tem Scott stated under the recommendations by the auditors, have they implemented all those recommendations? This would include that For Sale signs don't go up on the property until its complete.

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John Dutrey, Housing Program Manager stated that yes they have. Also, there is a requirement that For Sale signs do not go up until the property is complete or the property is in the condition where it's marketable and shown to buyers. They completed two lotteries last month and being conducted in the City Clerk's Office.

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Motion by Council Member Baca Jr., second by Council Member Palmer and carried by a 4-0 vote to approve Auditor Findings and Recommendations of the Acquisition, Rehabilitation and Resale (ARR) and Down Payment Assistance (DAP) programs as part of the Neighborhood Stabilization Program. Mayor Vargas was absent.

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TAB 11 – Modification No. 3 for the ARR Guidelines for the NSP Program

John Dutrey, Housing Program Manager stated that this item is also part of the NSP program. This is the guidelines for the Acquisition, Rehabilitation, Resale Program. In addition to the \$5.4 million that the City was awarded in 2008, the city was also awarded the \$1.9 million this year through the NSP3 program. The purpose for the modification of these guidelines is to include the NSP3 funding requirements and some other modifications required. The modifications include to add the target areas for NSP3 which are in this case much smaller compared to the NSP1 target areas. Establish better guidelines in terms of the private loan interest rates and fees that the loan partners use to do the rehabs. Also, through HUDs requirements to ensure they have the correct discount amount. In this case the homes have to have a discount of at least 1% which they acquire at a much higher discount. Guidelines in terms of the buyer's closing costs and then finally under NSP3 there are some local hiring practices which they have to include and implement in regards to the construction work and the hiring of individuals and construction companies.

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Motion by Council Member Baca Jr., second by Council Member Palmer and carried by a 4-0 vote to approve proposed Modification Number 3 for the Acquisition, Rehabilitation and Resale Program Guidelines as part of the Neighborhood Stabilization Program. Mayor Vargas was absent.

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NEW BUSINESS

TAB 12 – Relocation Plan for the 300 West Jackson Street Block Neighborhood Revitalization Project

Robb Steel, Economic Development Director stated that earlier they held a TEFRA Hearing regarding the West Jackson Project. This is also related to that project. On March 3, 2010 the Housing Authority approved an Agreement to rehabilitate the West Jackson project with Southern California Housing Resource and Development LLC. The project began as a total of 40 units, 32 that are redevelopment and financed and 8 that will be NSP financed. 60 total units in the neighborhood. The Authority acquired occupied buildings and as a result must comply with State relocation laws. One of the requirements is to adopt a relocation plan for the area. The relocation plan has to include information on the number of households that may be displaced and determine what their housing needs are. Identify suitable replacement locations for them. Estimate what it's going to cost the Authority to cause the relocation to appropriate, safe and sanitary housing. In May 2011 a Consultant engaged by the Authority surveyed the residents of the project to gather the necessary information to prepare the plan. It determined that four of the 28 units were occupied at the time of the survey so they had a high vacancy rate in the neighborhood. All four of the occupied units, the tenants were interviewed by the Relocation Consultant. All four of the occupied units comply with the eventual project's eligible income criteria. So in a perfect world, they will be able to move them back into the completed project after rehab. Only moving them temporarily to rehab the units. There may be some entitlement to temporary relocation benefits as a result and that cost is borne by the developer and not by the Authority. If an existing household is later determined to be ineligible because their income grew or some other characteristic that makes them ineligible to qualify, then the Authority will be obligated to relocate them in accordance with law. Typically, that is a payment that is equal to 42 times the difference between what they can afford to pay and what it's going to cost to find decent, safe and sanitary housing on the marketplace. They will try to estimate whether there will be any exposure and budget for that appropriately. The relocation plan was made available for public review and they published notice in the newspaper on June 17th and the last day for comments was July 21st and as of today, no comments were received. In terms of the financial impact if all four of the households are deemed permanent displacees, the permanent relocation costs has been estimated at \$98,750.

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Council Member Palmer stated in the relocation plan when they are dealing with tenants are they seriously looking at the tenants and their rental history at the property they are currently in? Any violations of leases or anything like that?

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NEW BUSINESS

TAB 12 – Relocation Plan for the 300 West Jackson Street Block Neighborhood Revitalization Project

Robb Steel, Economic Development Director stated if they are in violation of leases now they could take steps to evict them. Any tenants they are relocating have to be tenants in good standing.

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Council Member Palmer stated that he doesn't want to see what happened with the Willow/Winchester Project where some tenants were a few months behind in rent but were relocated and eventually brought back.

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Robb Steel, Economic Development Director stated they had a long gestation period so taking care of non-compliance.

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Motion by Board Member Baca Jr., second by Board Member Palmer and carried by a 4-0 vote to adopt **RHA Resolution No. 0005-11** approving a Relocation Plan for the 300 West Jackson Street Block Neighborhood Revitalization Project. Mayor Vargas was absent.

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TAB 13 – Redevelopment of Riverside/Easton Retail Development Site

Robb Steel, Economic Development Director stated that this is an approval of a Construction Contract to Merlin Johnson Construction for the relocation of the water mains and construction of sewer line. Then approval of Amendment No. 2 to a Professional Services Agreement with Lockwood Engineering for Development Engineering Services related to the redevelopment of the Riverside/Easton Retail Development Site that will eventually accommodate the In-N-Out Burger. On November 9, 2010, the Agency first approved a PSA with Lockwood for Civil Design Services that included the preparation of grading plans, utility relocation plans, dry and wet utility plans, landscape off-sites and all the elements necessary to accommodate the development of the site. Earlier this year the Agency approved an Amendment, which added design services related to the proposed sewer main. Preparation of right-of-way documents because they had to acquire the location for the sewer main and additional utility services. On April 12th the Agency approved the DDA with In-N-Out Burger for the development of their 3,750 sq. ft. restaurant on one of the development parcels that were created. The DDA obligates the Agency to prepare the plans, construct various on and off site improvements and deliver a finish pad to In-N-Out Burger and the other restaurants they hope to accommodate. This includes grading, construction and relocation of utilities, street improvements, traffic signals, freeway signs, common area parking improvements, installation of landscaping. Construction of the on and off site improvements have been split into two phases.

NEW BUSINESS

TAB 13 – Redevelopment of Riverside/Easton Retail Development Site

Robb Steel, Economic Development Director stated that the first phase is relocation of existing water mains that traverse the site. There are City lines and West Valley Water District lines. Then constructing the sewer main to take sewer down Date St. through a private easement they acquired. Phase II will be the rest of the improvements. Staff's recommendation is to amend the Lockwood engineering PSA one more time primarily because after they completed the preliminary plans, In-N-Out submitted their plans and they have to incorporate their revisions into their plans now to deliver the pad to their specs. As a result, additional Engineering Services are required. They were not part of Lockwood's original scope of work. In addition, they have asked Lockwood to include in the proposal some of the construction management work for surveying, construction staking and preparing access easements and waterline easements and removing the old easements that will be no longer necessary once they put the new lines in place. Lockwood has submitted a proposal to do this additional work at a cost of \$37,865. This will bring total compensation to \$131,135. The second part is the Phase I construction contract to Merlin Johnson Construction Inc. A sidebar to all this is that the City's water tank is currently fed through an underground power line that traverses the development site. In order to construct the Phase I improvements it will be necessary to disconnect the service line and provide an alternate source of power. It was determined that the most cost effective method was to use over-head temporary lines for the duration of the construction and ultimately go in underground again when the improvements are completed. Lastly, because of State legislation that effectively put Redevelopment Agencies out of business on June 28th. This project fit into one of the bubbles, there were areas of concern, but was able to convince them they had a DDA approved prior to June 28th. The Agency is implementing enforceable obligations pursuant to that legislation and that they regardless are taking steps to enhance the value of that asset so if the State does step in and seize their assets they made it more valuable. They have a compelling case no matter what the argument is taken, they have complied with the legislative intent by not limiting the amount of assets that they State could possible seize from them. They feel confident that the project meets the criteria to move forward. They are not asking for any budget adjustments adding funds to this project. They indicated that reallocation between the construction budget and the design budget to deal with additional engineering.

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Council Member Robertson stated the General Contractor, the location, and along those same lines, the Professional Services Agreement is with Lockwood but the sub-consultants are outside of the area as well. They continue to encourage that they would like to business with people in Rialto.

NEW BUSINESS

TAB 13 – Redevelopment of Riverside/Easton Retail Development Site

Council Member Robertson stated does this need to be covered in a greater scope of their contracting processes and how they are doing things. In the future please include the matrix of the contractors so they see where the contractors are located.

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Mayor Pro Tem Scott stated that he is in agreement with Council Member Robertson. They talked a number times of about giving 10% preferential treatment to local contractors. He has yet to see that come forward to City Council. The reality is they need to keep money within their community and keep residents employed. He wants to see it come back to City Council a 10% preferential discount for local bidders. He knows water and sewer lines are a specialized contractor but electrical is pretty general.

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Council Member Baca Jr. stated that he is in agreement with local preference. They continue to take positive steps to bring In-N-Out to the City. They will be dealing with the blight on that corner and potential tax revenue to the City and new amenity to the City.

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Motion by Council Member Baca Jr., second by Council Member Robertson and carried by a 4-0 vote to approve (1) Awarding Construction Contract to Merlin Johnson Construction Inc. for the Relocation of Water Mains and Construction of Sewer Line and (2) Amendment No. 2 to a Professional Services Agreement with Lockwood Engineering for Development Engineering Services related to the Redevelopment of Riverside/Easton Retail Development Site. Mayor Vargas was absent.

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TAB 14 – Alternative Voluntary Redevelopment Program

Robb Steel, Economic Development Director stated that item refers to the State efforts to discontinue redevelopment in the State of California. When the State adopted its budget on June 29th they had to Trailer Bills ABX126 which told the Agency as of that date had to stop operations and couldn't enter into new contracts. They couldn't engage any new activities that weren't deemed to be implementation of previously approved agreements. They couldn't go back into power unless they complied with ABX227 which allowed them to continue operations if they agreed to make certain voluntary payments to the State. Unless they agreed to make the ransom payments to the State on August 1, 2011 all Redevelopment Agencies are to disappear. All assets are to be turned over to successor agencies that would wind down their affairs. Whatever monies recovered will be turned over to the State and other taxing agencies.

NEW BUSINESS

TAB 14 – Alternative Voluntary Redevelopment Program

Robb Steel, Economic Development Director stated that the first option – Disestablishment – As on June 28th the Agency was decommissioned and they could only enforce existing obligations. They have to inventory those things in the next month and if they did decide to go out of business, the only things that would be repaid, anything else the State would ignore and they would be at risk for. The State intends to create the successor agencies, they could include the city as the successor agency. The overseer of that successor agency are County officials, school district officials, people that are hostile to redevelopment. There is some uncertainty regarding the unspent bond proceeds under the Disestablishment. There is some language that says you can spend bond proceeds in accordance with the indentures in which you issued them. There is other ambiguous language saying that if they have the opportunity to use those bonds proceeds to retire debt to pay off bonds. If they are close to the call dates on those bonds. It's a slight risk because they have so much money set aside for critical projects citywide. Option 2 - Voluntary Redevelopment Program – It's not voluntary put the State had to coin it that way so that it doesn't violate Prop. 22. The choice is if they don't make the payment then they don't exist. It's voluntary from their viewpoint. The City is obligated to make this payment to the State. The State does allow the Redevelopment Agency to backfill the City. In a haste to put this legislation together there is some ambiguous language but essentially says the City has to use the money that they give the City for authorized redevelopment purposes. Typically, they are not authorized to pay for operations, they are only authorized to pay for capital projects. Most of the attorneys looking at this are saying they think they could qualify police and fire services to redevelopment project areas. These are legitimate uses of those funds. So they think they can back fill it so there is no consequence to the City's General Fund. This is still one of the gray areas they are trying to figure out. They have to adopt a Resolution of Intent. It's nonbinding. They have to submit this to the State telling them they intend to make the voluntary payments. Then they have to adopt and enact an Ordinance which will be sometime in September before they can start transacting new business. The City has the option to bail out in January when the first payment is due. Even if they approve all these things and they come back with all the figures, they can opt out at that time and go back to option 1 with no other penalty. The financial impact to the Agency, the State hasn't given them what the obligations are. They are obligate to supply it by August 1st. They will know next week if there are any radical changes from these estimates. The estimated fiscal year 2012 payment is \$6 million. A portion of the unreserved balance will go towards that payment.

NEW BUSINESS

TAB 14 – Alternative Voluntary Redevelopment Program

Robb Steel, Economic Development Director stated the estimated fiscal 2013 payment is \$1.4 million. Then it will grow each year after based on a formula that the State will put forth that takes into account what percentage their tax increment of the total Statewide tax increment. Then another factor which will be hard to project which is the percentage of the growth of the new debt that they incur. They siphon it off and give to the school systems. Everything they do is incurring debt so every penny spent that is not already on their list of obligations will create an obligation to make this payment to the schools. One important thing, in fiscal year 2012 only, the State has allowed them to use the annual deposits to the low/moderate income housing fund to make that payment. Estimates in the \$4 million - \$4.5 million range. They could apply that to the \$6 million obligation and the balance coming out of the Agency's 80% resources. They also filed litigation through the various trade associations, the League of California Cities and CRA teamed up to file actions to invalidate both ABX126 and ABX127. They asked for an injunction and sent it straight to the Supreme Court because it had Statewide significance. They are seeking an injunction by August 15, 2011. If they get it, and depending on what the injunction provides for. If they get to continue operations as is or of certain elements of the bills are allowed to carry forward. If anything radical comes out of this he will let City Council know. ABX127 has the more constitutionally suspect provisions, they feel are in direct violation of Prop. 22. ABX126 has some issues but not as many. If the first one is invalidated, it has a poison pill that says litigation and validates 27, then 26 remains operative and they all go away. Disestablishment. It creates some confusion depending on the outcome of the litigation is as to what authorities they have to conduct business. Hopefully, the judge or some follow up litigation will clean up some of these uncertainties. They can deal matter of factly with their development partners in terms of what they can and cannot commit to.

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Council Member Robertson stated they need to take the action they need to take to move forward and be able to continue to operate.

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City Attorney Gutierrez read the title of the proposed Ordinance:

ORDINANCE NO. 1490

**AN ORDINANCE OF THE CITY OF RIALTO, CALIFORNIA,
ELECTING TO COMPLY WITH AND PARTICIPATE IN THE
ALTERNATIVE VOLUNTARY REDEVELOPMENT
PROGRAM CONTAINED IN PART 1.9 OF DIVISION 24 OF
THE CALIFORNIA HEALTH AND SAFETY CODE**

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NEW BUSINESS

TAB 14 – Alternative Voluntary Redevelopment Program

Motion by Council Member Robertson, second by Council Member Palmer and carried by a 4-0 vote to (1) adopt **Resolution No. 6036** declaring its intent to enact an Ordinance Electing to Comply with the Alternative Voluntary Redevelopment Program and (2) **Ordinance No. 1490** electing to comply with and participate in the Alternative Voluntary Redevelopment Project contained in Part 1.9 of Division 24 of the California Health and Safety Code. The vote was: AYES: Mayor Pro Tem Scott, Council Members Robertson, Baca Jr. and Palmer. NOES: none. ABSTAIN: none. ABSENT: Mayor Vargas.

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TAB 15 – Expenditure Authority for Fergusson Park Improvements Project

Ahmad Ansari, Public Works Director/City Engineer stated this is a request by the City Council to approve increases related to the Fergusson Park project construction expenditures. As City Council is aware, the Fergusson Park Project has been under construction since November 2010. It's anticipated to be completed by October/November 2011. In August 2010 when City Council awarded the construction contract, out of the total \$6.9 million budget, the City Council awarded \$5.6 million for the Construction Contract and \$564,000 for design. \$57,000 for project management during the design and \$250,000 for construction management and support services. Before he gets into the change orders and the essence of the staff report. The \$564,000 for design is standard and sits at the 10% of the Construction Contract roughly the \$57,000 for the project management during the design also sits at 10% of the design so that is normal. The \$250,000 for construction management and support services for such a project. This is at 4.5% of the construction cost. The industry standard is around 8%-9%. All of these four items that were awarded in August added up to \$6.5 million. For a number of years that he has been with the City, they have had a goal to have zero change orders on all of their projects. Usually they don't include any construction contingency on any project. Neither do they report the Engineer's estimate in the bid documents. In this project was no exception, there was no construction contingencies awarded in August 2010. The construction has been going fairly successful and it's on track moving along to be completed October/November. The goal of the department is ideally to have zero change orders on all projects. Performance standards is to keep change orders below 5% of the construction cost. 90% of the cases he is pleased to report they have been successful in accomplishing that goal on almost all projects. The purpose of the staff report is to present additional items of cost with respect to the construction activities. Also, estimated and anticipated items that the City Council will be considering tonight.

NEW BUSINESS

TAB 15 – Expenditure Authority for Fergusson Park Improvements Project

Ahmad Ansari, Public Works Director/City Engineer stated the total of all of this is \$189,127. The make-up of that amount is as follows: In the staff report lists nine items. The first five items is the change order items that are cost that have already incurred with exact figures. The total of the five items is \$81,127. Again this portion of the increase amounts to 1.5 percent of the total construction cost. The second set of items is the last four items and those are estimates. Those are the anticipated issues in construction that are currently being negotiated with the Contractor. They add up to \$58,000 which is approximately 1 percent. The change orders costs that he has already paid for and approved plus the anticipated ones still in negotiation with the Contractor total is 2.5 percent of the total construction cost which is well below the 5% goal. The other component of the \$189,127 increase they are asking for is an additional \$50,000. The \$250,000 he asked for in August 2010 that was slightly under estimate. Its sitting at the 4.5%, the standard industry plus the support services sits around 8%-10%. Even with the 50% they are sitting at the 5.3% and he is confident that with the total of \$300,000 it will carry it through to completion. The overall project will complete below the \$6.9 million and hopefully leave \$200,000 left in the overall project. He spoke with two Council Members today and most had questions regarding why these change orders occurred. There is a brief explanation in the staff report on each of the items. He expanded the explanation on all nine items. Some of these items have to do with design issues and the way the consultant showed certain things or did not show certain things on the drawings. He has marked those items with red circles – 1, 3, 4, 6, 8. The first one had to do with the life and safety issue. The design consultant designed the light footings with 100 mph design load and then UBC above Foothill Blvd. requires 120 mph. Therefore, there was a need for additional concrete and upsizing the footing so that is the additional cost for item 1. The second item he noted with the red square, item 2 has to with Edison drawings. The bid was based on the preliminary drawings they had from Edison, the final Edison drawing required substantial additional work. This one of the items that they really can't fault the design consultant. It would have been the change order or had to pay the contractor during the bid process so this is a cost they would have had to absorb. Item 3 had to do with relocation of some electrical. This was a design issue, an unforeseen set of circumstances. The design consultant can argue that the as build drawings did not show. It's hard to know where the lines are and it cost them \$3,749.79. Number 4 was a relocation of a tank to avoid the utilities. This is similar to Item 3, it was an unforeseen set of circumstances. The contractor ran into pre-existing utilities and they had to shift the storm drain tank 5 feet to the north to avoid conflict. The utilities belong to AT&T and SCE along the south side of the park. .

NEW BUSINESS

TAB 15 – Expenditure Authority for Fergusson Park Improvements Project

Ahmad Ansari, Public Works Director/City Engineer stated Item 5 has to do with Water Service. This has to do with the value engineering. They had to have the water service for that park and if they wanted to do a new West Valley Water service meter that would have cost the City \$63,000. To make a modification with the pump and the existing service they only ended up paying the contractor \$3,046.30. That is one of the things they would have had to pay so its not a design issue. Item 6 has to do with ADA requirements which is pursuable with the design consultant. Item 7, the lip of the skate rink. The consultant had shown half of the area with steel coping and then the other was the tiles or something similar to swimming pools. There has been numerous occasions of the sports leagues and members of the community, future park users gave comments. What they prefer to do is remove the steel and use the same treatment as the tiles all the way around as opposed to half and half. This was change they wanted to do during construction and again the \$4,000 is not final. Item 8 has to do with a design issue, remove and regrade concrete walkway. They ran into pre-existing sidewalk which exceeded the required slope and led directly into the street. They had to make modifications and remove the non-ADA walkway and add additional improvements and concrete and landscaping. The last one has to do with the repair of the retaining wall foundations. This was caused by rain and contractor is claiming that the building permit was delayed. They are in negotiations with them that this is not the case. The operation was staged in such a way that had nothing to do with the delay in the building permit. If they look at the whole thing, the highlighted areas amounts to 1.5% and the second set is 1%. If it's the desire of City Council to give them the allowance for the anticipated items which are the last four they can go with that and this is how the staff report is presented with staff recommendation. Most of the questions were circling around the anticipated items, he is proposing the areas that have been finalized and approved and paid for, staff recommends that City Council approve the \$81,000 at the 1.5% change orders. Plus the \$50,000 additional construction management and then they will further pursue the last four items once they are resolved and will bring it with the final numbers back to City Council. This project has \$6.3 million from RDA bond Series A 2008 and \$590,000 from park development.

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Council Member Palmer stated in the staff report on page two where they give the totals. It states expenses incurred during design phase of Frisbie Park?

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NEW BUSINESS

TAB 15 – Expenditure Authority for Fergusson Park Improvements Project

Ahmad Ansari, Public Works Director/City Engineer stated that is an error, its Fergusson Park. This project was switched from Frisbie Park to Fergusson Park.

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Council Member Palmer stated regarding the first item, additional costs for larger poles and footings due to the increase of wind load requirement. What is the increase? It's been the requirement for 20 years up there. If a builder is building above Baseline, then they know that the wind blows over 100 mph.

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Ahmad Ansari, Public Works Director/City Engineer stated the design consultant's assumption was 100 mph and that is the number that is used per UBC in many locations. However, according the building division and UBC requirements, above Foothill Blvd. 100 mph is substandard. They have to use 120 mph.

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Council Member Palmer asked how long has that been their standard?

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Bob Watson, Development Services Department, stated that the wind load standard hasn't changed in 25 years. The difference being 100 mph wind load is a sustained wind load. 120 mph is a 3 second gust. This is what the design of the light standards needed to be.

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Ahmad Ansari, Public Works Director/City Engineer stated it's the fault of the design consultant and this why there is a red circle on the list.

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Council Member Palmer asked who reviews the design consultant's work before it's presented?

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Mayor Pro Tem Scott stated that is the key question. Public Works has a whole bunch of engineers; do they review what the design consultant is doing?

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Ahmad Ansari, Public Works Director/City Engineer stated yes for anything that is structural, they put it through building and safety division. This went through building and safety and they caught the wind load and this is why it came back.

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NEW BUSINESS

TAB 15 – Expenditure Authority for Fergusson Park Improvements Project

Mayor Pro Tem Scott stated so that was after the bid, so why wasn't it caught before the bid or during the design.

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Bob Watson, Development Services, stated a little history on the bidding process and the plans that were submitted to the Building Division. When the Building Division received the plans from Public Works for this project, none of the engineering was included. Therefore, it was sent back with corrections stating that the engineering for all these structures including the light standards, bleaches, shade structures, concession stands, all needed to be provided the engineering to the Building Division to do a check. The bid set did not include any of that engineering. It was noted and given back to Public Works.

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Mayor Pro Tem Scott stated so the bid did not have all that stuff on it. They gave them an open checkbook and said write your number.

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Bob Watson, Development Services, stated not at all. It was given back to Public Works stating that the plans lacked these set of plans prior to the bid.

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Council Member Palmer asked how did the bid go out with these plans that weren't complete. They made an error in Public Works or somewhere that cost them \$41,000 for something that has been in their books for 25 years.

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Ahmad Ansari, Public Works Director/City Engineer stated that it had to do with the calculation of the wind load and the way it was completed on the bid set was based on the 100 mph and later the 120 mph requirement came after the bid.

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Council Member Palmer stated that they need a lot of work on what they are doing here because he doesn't care about percentages. When he says its 1% of the construction cost. He equates it to dollars. He doesn't expect to spend it but expects to get it right in the first place. So they are not expending \$41,000 to a Contractor that is 3 blocks away from the site he is developing and he has done work for the City and he knows what wind loads are for light poles in Rialto.

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NEW BUSINESS

TAB 15 – Expenditure Authority for Fergusson Park Improvements Project

Ahmad Ansari, Public Works Director/City Engineer stated that the Contractor doesn't need to know that information. The Contractor is not a designer. The design consultant is the one that needs to know the wind load and the timing between the building and safety, bidding process and what appears on the construction drawing.

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Council Member Palmer asked how much did they pay the design consultant to do this design.

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Ahmad Ansari, Public Works Director/City Engineer stated the design consultant is the \$564,000.

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Council Member Palmer stated maybe they should get back \$41,000 from the design consultant.

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Ahmad Ansari, Public Works Director/City Engineer stated this is exactly his point. The red circle is a design issue that they are pursuing with the design consultant. They are talking about two different things. One has to do with the progress of the construction and cost recovery because of the reasons. This is one of the five areas that is design issue and they are pursuing with the design consultant. At the same time the construction activity cannot stop because work has to proceed.

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Council Member Palmer stated in regards to Item 2, \$30,000 for SCE drawings. Why are they not waiting until they get their final drawings? Was that a grade issue that they had to remove and replace an existing concrete pad?

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Ahmad Ansari, Public Works Director/City Engineer stated that the bid was based on the preliminary drawings. The final SCE drawings required substantial additional work.

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Council Member Palmer asked why did they have to remove the pad? Did they have to raise it up, lower it, move it somewhere else?

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NEW BUSINESS

TAB 15 – Expenditure Authority for Fergusson Park Improvements Project

Ahmad Ansari, Public Works Director/City Engineer stated yes, it was relocation of the improvements involved because the bid was based on the preliminary drawings.

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Council Member Palmer asked why did they have to move it?

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Ahmad Ansari, Public Works Director/City Engineer stated because of the layout of the Edison drawing and electrical lines. This is one of those items that they had to pay one way or another. Even if the bid set was based on the final Edison drawings, they had to pay during the bid process anyways.

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Council Member Palmer stated that he doesn't know if that is true or not. He doesn't know what the bid would have been if they would have bid on the final drawing rather than the preliminary drawing. He finds it strange that they are sending bids out without final drawings. It leaves them with this kind of a mess on their hands.

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Ahmad Ansari, Public Works Director/City Engineer stated it was a timing issue with Edison. This is not really uncommon because by the time they get the final drawings from Edison it usually lapses with the bidding.

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Council Member Palmer stated that when they talk about the anticipated changes. He went to the park to go over this to see what they were talking about. The change of the bowl at the skate park from steel to pool coping. He said it's already done with the steel around it. So what is the reason to change it and to cost them another \$4000 because skateboarders came and said they like the pool coping instead.

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Ahmad Ansari, Public Works Director/City Engineer stated the original design was half steel and half tile. However, they got input from the sports leagues and one individual who is a park user and their preference was to change the steel and make it tile all the way around.

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Council Member Palmer stated but it's finished already.

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NEW BUSINESS

TAB 15 – Expenditure Authority for Fergusson Park Improvements Project

Ahmad Ansari, Public Works Director/City Engineer stated its one of those things that in the past experiences they prefer to have it that way. If they want to move ahead with the change this is what it's going to cost.

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Council Member Palmer stated that they should have talked about that before they built the park. They had meetings with these people beforehand right? One thing that came up when he was at the Park was the bike riders. Some of the bike riders use skate parks to do their stuff. They can't use the pool coping but they can use the metal edge. By leaving the metal edge they open it up to be used by more people. He would be opposed to changing it.

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Ahmad Ansari, Public Works Director/City Engineer stated that they can look into that item.

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Council Member Palmer stated that the next thing is the \$12,000 cost for removing that 15 feet of sidewalk. He feels Public Works can do that work in about 4 hours. So he is opposed to that item.

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Ahmad Ansari, Public Works Director/City Engineer stated that this was an estimate.

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Council Member Palmer stated that regarding the last one, the building permit delay. Who said there was a building permit delay?

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Ahmad Ansari, Public Works Director/City Engineer stated the Contractor is claiming that.

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Council Member Palmer asked what was the delay?

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Bob Watson, Development Services Department stated that the Contractor got a Notice to Proceed on the retaining walls and did so without obtaining building permits. They are negotiating with them to show there was not actual delay in the permit itself. It was their lack of coming to pick up the building permit so that they can start the work properly and obtain the necessary inspections for the retaining wall. In between that time they had a downpour of rain which washed out those footings. So maintain a good footing in undisturbed soil they have to clear off the loose stuff.

NEW BUSINESS

TAB 15 – Expenditure Authority for Fergusson Park Improvements Project

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Council Member Palmer stated that he wants to make sure the Building Department didn't delay in giving them a permit.

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Bob Watson, Development Services Department stated that they will show that to the Contractor. The last set of plans that came in with revisions for this item went through the Building Division and within 9 days they issued the building permit.

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Council Member Palmer stated from the last time they came to City Council to approve this because of these change orders they are adding another \$50,000 on contract management support services.

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Ahmad Ansari, Public Works Director/City Engineer stated this correct. For a project of this size, every time they are doing any estimating on CIPs of any nature, on top of the hard costs, construction and soft costs they add another 30% contingency. This is very low.

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Council Member Palmer stated that they are using City employees to do this construction management but they are not basing them going to the park and managing this contract based on their salary or what they make. He is doing it on dollars. \$50,000 is a year pay to a lot of people. He doesn't understand how they can charge that for construction management when they are using City employees that go up there once a day for 15-20 minutes a day.

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Ahmad Ansari, Public Works Director/City Engineer stated that it's a lot more than that. There is paperwork, contract administration in the office. Not all the \$250,000-\$300,000 is construction management, don't forget the support services. There is materials testing and soil. It's these kinds of things that add up. Even with the \$50,000 they are sitting at 5.3%.

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Council Member Robertson stated that they have identified some they felt were the consultant concerns that will be discussing with them. Out of the top four Mr. Ansari had 3 of the 4 and she had all four of the that she felt needed to be resolved. She doesn't know why they should even have to look at them as change orders. Again the first one is part of a design thing and should have been addressed by the consultant.

NEW BUSINESS

TAB 15 – Expenditure Authority for Fergusson Park Improvements Project

Council Member Robertson stated and if not the contractors should have been raising it. The second one with Edison, it was mentioned to her that there was some things that weren't identified and planned. The information, conduits, electrical, the utilities were not on the plans. Anyone designing a project or even the contractor, you go to the field and look at what is in the field along with what you are suppose to be designing. Did the design consultant actually go into the field and look at the park and see certain things. If you don't see electrical on some plans but you see a transformer box sitting there, wouldn't they make note of that? When they have to remove a concrete pad and get a transformer these are visuals.

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Ahmad Ansari, Public Works Director/City Engineer stated one of the things they are discussing with the design consultant is did they see the existing basketball courts out there or not and are there light out there or not.

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Council Member Robertson stated that if they see it then you raise the question to the City or Edison. With the ADA requirement it's the same thing, everything they do has to meet ADA requirement.

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Ahmad Ansari, Public Works Director/City Engineer stated the design consultant architect did an excellent job on this project but the sub-consultant they used for civil engineering and some of the structural missed a lot of details.

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Council Member Robertson stated the consultant is ultimately held responsible and he delivers the product. She had a concern with ADA issue on the ramp. She didn't go out and look at the grade but again this something in the course of looking at the field and deciding. Unless it's something subsequent that they added to the design, that is all something they are doing in the course of the design. The last one, even if it's a who didn't get the permit and who started on time. Once a contractor starts the build on a project, authorized or not, he has some responsibility to protect his project. If they stop he is suppose to anticipate rain but to say that water came and undermined the project to the point that it caused the footing to cave in. Either she would be concerned with the type of footing he was putting in to begin with. Along with the \$50,000 addition for construction management, when she has a certain amount of dollars and she overruns in one place then that means she has to reduce and absorb it some where else. You don't continue to grow the pie, it just stays the way it is.

NEW BUSINESS

TAB 15 – Expenditure Authority for Fergusson Park Improvements Project

Council Member Robertson stated they just make some adjustments and if that means no additional cost increases for support services and construction management. He explained percentages and industry standards but when they are focusing on the zero. No additional contingencies across other than what they bid then moving the line 2% above that still is not meeting the objective. She cannot authorize an additional \$200,000.

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Mayor Pro Tem Scott stated that there is no excuse for change orders on wind load and ADA requirements. Anybody could have went to the Building Department to check that. ADA requirements are visual observations and should have been done on job walks with the design consultant prior to all of this. What they are trying to accomplish tonight by asking them to approve items they are going back to the contractor and try to get him to pay for is going to take them down the road to a lawsuit. If he is the contractor he will just say well the City Council approved this anyways and it will get paid whether I agree to reimburse them or not. They have not learned anything since Rialto Park. This is the same thing that happened at Rialto Park. They paid a design consultant \$568,000 and city staff has oversight over that design consultant. Here is the issue, project after project, Public Works has engineers. He worked in the oil industry for 25 years as either an engineer or a manager overseeing engineers. When a project went out to a design build contractor those engineers oversaw that. When those plans came in they looked at them, reviewed them and then gone to the Building Department. Wind loads are very simple, ADA is simple stuff. Anybody in the business knows what it is. The Edison thing is something he might believe because he has dealt with them and knows how difficult they are. The rest is an argument and a lawsuit waiting to happen. That park is in shambles up there. No security, vandalism, once again they haven't required the contractor to have security on the park during construction. If he does have it then he doesn't have a good security company. He recommends tabling this item and go back to the contractors and deal with each issue and resolve them. If there is legitimate change orders then bring them forward to the City Council. He doesn't think there will be a repeat of Rialto Park because the \$189,000 is headed to \$1 million and they are not going to do it. They were very plain with Public Works staff over Rialto Park, if they didn't get the message, they will get it this time. He entertained a motion to table this item.

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Council Member Robertson stated that she is concerned with the progress of the park and getting it completed. Is this delaying the contractor getting this project resolved?

NEW BUSINESS

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TAB 15 – Expenditure Authority for Fergusson Park Improvements Project

Ahmad Ansari, Public Works Director/City Engineer stated yes it does.

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Council Member Robertson stated that he needs to move forward on the project and she doesn't understand if these items need to be resolved. The first four have already been addressed because those are hard costs. Everything else needs to be addressed. She is not going to authorize it, he needs to proceed and get it done and then look at a claim process, not a change order.

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Council Member Baca Jr. stated that he is concerned too about making sure the park progress is not delayed. Originally they had it planned on being finished by August/September but its clearly delayed. He had a sidebar conversation with the Acting City Administrator Mike Story.

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Acting Interim City Administrator Mike Story stated that he agree with Mayor Pro Tem Scott and City Council decision to table this item so they can sit with the contractors or design people to move forward. The intent was the completion of the project by November/December and they are on track to do that. He asked Mr. Ansari if they anticipate that by doing any of this they are not going to meet the December deadline to complete the park?

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Ahmad Ansari, Public Works Director/City Engineer stated the completion of the project in November, they can keep that on track. The only concern he has is that the project is going to be running on additional expenditures particularly in the hard costs that is not technically authorized by the City Council. Getting back to the point that Mayor Pro Tem Scott made he agrees 100% that the issues are design related. However, it's not the local contractor's fault. Some of the items that have already been approved and decided in the field. If they can move forward on the highlighted areas and the other areas they can pursue with the Contractor without experiencing any delays.

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Council Member Palmer stated its not doubt when this park is finished it will be a jewel of Rialto. The whole layout is great. Right now, if he can close the skate park and demo it he would. The same people coming and saying to spend another \$4000 are the same people who's kids are going in every night and tearing down the fences and skating in it and its not done.

NEW BUSINESS

TAB 15 – Expenditure Authority for Fergusson Park Improvements Project

Council Member Palmer stated there is graffiti on almost every wall of that new skate park. This is not a City problem right now, it's a construction site so it's a Contractor problem. They will deliver to the City this brand new skate park and wonders what they are going to with the graffiti. It's not just one or two it looks like a war zone.

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Ahmad Ansari, Public Works Director/City Engineer wanted to address Rialto Park.

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Mayor Pro Tem Scott stated no, they are going back to Rialto Park. He stated Southern California Edison is one item he can see being delayed and if they send a bid out without final SCE drawings then its shame on us. This is not the contractors fault or the design consultants fault. They should never send a bid out for Edison work without having final drawings. Edison is liable to change anything or require a different kind of transformer. He suggests approving the one item for SCE and the rest table.

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Ahmad Ansari, Public Works Director/City Engineer stated that he assures the City Council that just like they finished the Jerry Eaves Park parking lot and additional park areas successfully. At the end of the day this project will be another successful project.

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Council Member Robertson stated that if they are going to approve the SCE item then they need to approve the Water Service item.

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Motion by Council Member Palmer, second by Council Member Robertson and carried by a 4-0 vote to ONLY approve Change Order No. 2 SCE Drawings and Change Order No. 5 Water Service and table the rest of TAB 15 regarding the Fergusson Park Improvements Project. Mayor Vargas was absent.

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TAB 16 – Jurisdiction Master Agreement with SANBAG for reimbursement of arterial projects

Ahmad Ansari, Public Works Director/City Engineer stated this item is to approve the Jurisdiction Master Agreement with SANBAG for reimbursement of upcoming arterial projects on Measure I 2010-2040 Nexus List. Recently SANBAG requested the City to execute what is called a Jurisdictional Master Agreement to get the reimbursement from Measure I projects that are included in the CPNA (Capital Project Need Analysis). THE CPNA was first submitted to SANBAG in 2009.

NEW BUSINESS

TAB 16 – Jurisdiction Master Agreement with SANBAG for reimbursement of arterial projects

Ahmad Ansari, Public Works Director/City Engineer stated that it was last updated in November 2010. The project that are listed are Alder Avenue widening, Ayala widening, Foothill widening and three traffic signals, two of which are completed and one is under design. Sycamore and Merrill, Valley and Cactus, Riverside and Locust. The agreement will be a mechanism for the City to be reimbursed for the public share which is 50.1% of the eligible expenses based on the Nexus Study. The City will be responsible for the remaining 40.9% from the development share. The financial impact and Measure I major street arterial program allocation in fiscal year 2010-2011 was previously budgeted for \$247,690. Staff requests the City Council to approve a fiscal year 2011 budget resolution to increase the revenues in the amount of \$327,600 in Fund 300 account and allocate a total of \$527,290 for the 2-year cycle for the projects that are mentioned on the CPNA.

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Motion by Council Member Baca Jr., second by Council Member Palmer and carried by a 4-0 vote to adopt **Resolution No. 6037** approving the Jurisdiction Master Agreement with San Bernardino Associated Governments for the reimbursement of Arterial Projects on the Measure I 2010-2040 Nexus List up to the Annual Allocated as allocated by SANBAG every year through the Year 2040. Mayor Vargas was absent.

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TAB 17 – PSA to VA Consulting for Engineering Design Services for Trickleside Alley Improvements

City Attorney Gutierrez stated that they have two unique circumstances on this item. The first one is that the Mayor is unavailable to take legal action because of her excused absence due to her medical condition. This means they do not have three non-conflicted Council Members to make a decision. However, the two Council Members who own properties within 500 feet of this proposed project are Mayor Pro Tem Ed Scott and Council Member Ed Palmer. Under the regulations it's his opinion that the fact that the existing alley and existing water line are going to be repaired, they do not constitute material financial interests for purposes of a conflict. He doesn't really think they have a conflict, however, he is not the FFPC and his opinion is not binding. Given those circumstances, he thinks it will be appropriate to disqualify both Council Members and then conduct a lottery so one can come back and make the quorum necessary for them to take a vote on this item. The City Clerk will ask that they draw number from the cup and then the one that has the designated number will be the one that can remain and vote on this item. The other will have to excuse himself from the dais while discussion is taking place.

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NEW BUSINESS

TAB 17 – PSA to VA Consulting for Engineering Design Services for Trickleside Alley Improvements

City Attorney Gutierrez stated he would like the record to reflect that the lottery was conducted between Mayor Pro Tem Scott and Council Member Palmer and Mayor Pro Tem Scott picked the ballot that allows him to stay on and vote. They now have a quorum consisting on Mayor Pro Tem Scott, Council Member Baca Jr. and Council Member Robertson. Council Member Palmer has left the dais.

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Ahmad Ansari, Public Works Director/City Engineer stated that this is a request to award a Professional Services Agreement to VA Consulting for engineering design of Trickleside Alley Improvements in the downtown area. The enhanced improvements considered for the Trickleside Alley which is west of and parallel to Riverside Ave. between First and Rialto is consistent with the Downtown Vision and Strategic Plan approved in January 2010. It includes decorative concrete pavement, landscaping, replacement of water main and service laterals which are over 50 years old. The number one firm was VA Consulting who submitted a fee proposal of \$82,718. Negotiations brought it down to \$75,102 for this project with a four month schedule to complete the design work. The design schedule is to have this project completed and ready for construction by Summer 2012. There has been some interest on the undergrounding of the Edison facilities. This is not included in this scope due to cost, however, there has been discussion with the Consultant and they are experienced to coordinate the work with Edison. Public Works and RDA are working together to secure funds for that portion of the work and will bring it back to City Council once everything is confirmed. Funds are available and budgeted in RDA Capital Projects fund account in the amount of \$800,000 and \$240,000 in the Water Fund Account for the total of \$1,040,000.

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Council Member Robertson stated regarding the concerns about the undergrounding and the wiring. There was a high cost associated to the businesses. She recalls asking the RDA Director and Manager to look into some grant opportunities that became available. She doesn't recall hearing a response back one way or another as to the ability to access grants and funds that may have been available for low income areas with small businesses.

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Robb Steel, Economic Development Director stated that they still need to look at other options for funding but they did look at the 20B and 20C options. There was not a lot of opportunity there; these are primarily private funds options. The cost estimate was \$300,000.

NEW BUSINESS

TAB 17 – PSA to VA Consulting for Engineering Design Services for Trickleside Alley Improvements

Robb Steel, Economic Development Director stated that he thought it just might be a question of City Council priorities and looking at other areas. If they really wanted to do that work they would have to budget some RDA funds and then try to apply the 20B or 20C regulations.

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Council Member Robertson stated that they still look at it and see what is available as it relates to grant funds so they can get the improvements done that would not be a cost to the businesses. It would totally improve the alley. They are going to make improvements but still leave the electrical lines overhead. No disrespect to pigs but it's gonna look like putting lipstick on a pig.

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Motion by Council Member Baca Jr., second by Council Member Robertson and carried by a 3-0 vote to adopt budget **RUA Resolution No. 03-11, Resolution No. 6024** amending the 2010-2014 Capital improvement Program and award a Professional Services Agreement to VA Consulting, Inc. for Engineering design Services for Trickleside Alley improvement in the amount of \$75,102. Mayor Vargas was absent. Council Member Palmer abstained from voting.

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Council Member Palmer returned to the dais.

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ORAL COMMUNICATIONS

No one came forward to speak.

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REPORTS

Council Member Palmer gave no report.

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Council Member Baca Jr. wished Council Member Palmer a Happy Birthday which is this coming Thursday.

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Council Member Robertson stated that she was made aware regarding questions about the posting of a Utilities Commission. She knows when she asked when they addressed the water and rate issues to go back and have the Utilities Commission look at the material and come back with some recommendations. She was told they had about three meetings of people. She wants to make a note that the Commission appointed people. Looking at the Ordinance, the Commission doesn't have authority to appoint people to anything. There will be another working meeting tomorrow that has been posted.

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REPORTS

Ahmad Ansari, Public Works Director/City Engineer stated the first meeting was really a Special Meeting of the Utilities Commission during the week of July 11th, then at that point when they discussed, they formed an Ad-Hoc Committee of the Utilities Commission, plus staff and consultants. Consequently, they had an Ad-Hoc Meeting on the July 19 and one last night, which was the 25th. There is another one scheduled for this Wednesday night. There are 3-4 others for August. The goal is by the end of August to be able to analyze the whole thing and look at all the alternatives and have something to recommend to City Council.

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Mayor Pro Tem Scott stated when he says Ad Hoc Committee what does this exactly mean?

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Ahmad Ansari, Public Works Director/City Engineer stated the Ad Hoc Committee is a minimum of two members, preferably all members of the Utilities Commission and plus four other individuals.

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Mayor Pro Tem Scott asked if they are posting regular meetings for this?

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Ahmad Ansari, Public Works Director/City Engineer stated yes they are.

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Council Member Robertson stated no, they have not. When they say posting those postings should go through the City Clerk's Office. She is trying to clear up something and ensure people because now that she became aware of it, she is sure others will want to know. The whole intent and discussion was put in an environment so it's inclusive. When they give an appearance that there was group that has appointed to look at something without others being a part of it or aware of it then there would be a concern about people possibly being excluded. Please put it on track. The notice went up today for a meeting tomorrow. She would ask that those notices go to the City Clerk's Office so everyone is aware and can be a part of it.

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Mayor Pro Tem Scott asked if a Notice was posted for the Special Meeting?

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REPORTS

Ahmad Ansari, Public Works Director/City Engineer stated that it's his understanding that it was. When there is a special meeting in lieu of the normal Utilities Commission Meeting they always do the public noticing. His staff contacts the City Clerk's Office and do the noticing.

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City Clerk McGee stated that she will be glad to check.

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Mayor Pro Tem Scott stated that he wants to make sure things are being done properly. When they say Ad Hoc Committee there weren't actual appointments being made.

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Ahmad Ansari, Public Works Director/City Engineer stated yes, there were by the Utilities Commission.

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Mayor Pro Tem Scott asked if they had the ability to do that.

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Council Member Robertson stated no, not by Ordinance.

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Mayor Pro Tem Scott asked how do they correct that.

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Council Member Robertson stated that she is bringing it forward now to say that while it was well intended that is not a function of the Commissions.

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Mayor Pro Tem Scott asked if a Commission can set up a committee?

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City Attorney Gutierrez stated that none of the Commissions of the City have that authority. It's not in the Ordinance that authorizes their creation. They can invite people to participate but they do not have the authority to make an appointment. They are the Commission that undertakes the functions designated in the Ordinance and what City Council assigns to them.

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Mayor Pro Tem Scott asked if these people they picked have a voting ability?

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REPORTS

Ahmad Ansari, Public Works Director/City Engineer stated no. The decision lies with the Utilities Commission members and so far all four of them have been there. Commissioner Chitwood has been participating by speakerphone due to health reasons.

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Mayor Pro Tem Scott asked why did they set up a Committee versus just taking input from people that were interested in the subject.

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Ahmad Ansari, Public Works Director/City Engineer stated this is how they discussed it and how they wanted participation from staff. Consultants and staff are not able to vote only the Commission.

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Mayor Pro Tem Scott asked him to meet with the City Attorney and do what they need to do to correct this.

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Council Member Robertson wished Council Member Palmer a Happy Birthday.

She wished a great recovery to Mayor Vargas.

She would like to close in memory of a family member Charles Lucas.

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Mayor Pro Tem Scott asked that they close the meeting in memory of Colton Mayor David Zamora. He seen Mayor Zamora Thursday morning at the Major Projects Meeting. They had a frank discussion on working together on perchlorate issues. He looked as chipper as ever and passed away several hours later. It was a shock to him and it's a deep loss to the City of Colton and Rialto. He thinks he was the guy that was really reaching out to work well with Rialto and make a difference between the 2 cities. It's a huge loss for Colton to lose such a great talent and nicest guy you'd want to meet. He hopes whoever follows in his footsteps will carry on his legacy.

He stated last meeting in Washington DC with one of the perchlorate attorneys Peter Wiener, Butch Ariza from West Valley Water District and Barry Groveman. They also took Senator Gloria Negrete-McLeod with them. They actually got a face to face meeting with Senator Feinstein, Senator Boxer and Congressman Baca. They were supportive in their efforts to come to conclusion in the perchlorate situation.

REPORTS

Mayor Pro Tem Scott asked for a report back on where they are at with the graffiti removal contractor. He talked to Mr. Ansari about it but he has a huge problem with graffiti in the City right now. It's everywhere. He can't find the Contractor anywhere. When they issued that contract they got a lot of problems. He doesn't think they have lived up to it. They have had to put city staff on cleaning graffiti. He is tired of seeing graffiti in the City. He would like to see staff bring back an Ordinance that intensifies the penalty to people who graffiti in the City. They all know that most of the graffiti is caused by kids. They ought to hold the parents accountable. If your kids gets caught doing graffiti they should pay a \$5000 fine and I bet you will get control of your kid.

He reminded everyone that National Night Out is next Tuesday August 2nd at 5:00 pm

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ADJOURNMENT

Motion by Council Member Palmer, second Council Member Robertson and carried by a 4-0 vote to adjourn the City Council Meeting in memory of:

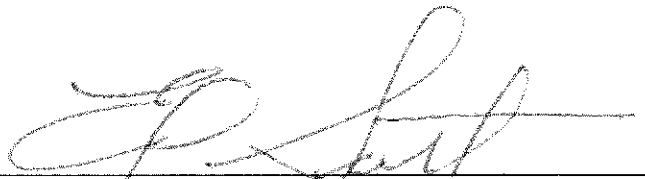
David Zamora
Colton Mayor

Charles Lucas

San Diego resident, relative of Council Member Robertson
Mayor Vargas was absent.

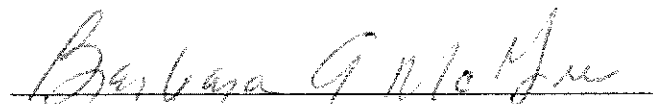
The City Council adjourned at 9:05 p.m.

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MAYOR PRO TEM ED SCOTT

ATTEST:



CITY CLERK BARBARA A. MCGEE